

House Resolution 179

By: Representatives Levitas of the 82nd, Wilkinson of the 52nd, Jerguson of the 22nd, Lunsford of the 110th, Cheokas of the 134th, and others

A RESOLUTION

Proposing an amendment to the Constitution so as to provide for ad valorem tax valuation and appeal procedures; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article VII, Section II of the Constitution is amended by adding a new Paragraph to read as follows:

"Paragraph VI. *Ad valorem tax valuation and appeal procedures.* (a) For purposes of this Paragraph, the term:

(1) 'Appraisal,' 'appraisal report,' 'appraiser,' or 'appraiser classification' shall have the same meaning as those terms are defined by general law relating to appraiser licensing.

(2) 'Appraisal valuation' means an estimate by an appraiser of applicable appraiser classification of the value of real estate or real property based on an appraisal.

(3) 'County ad valorem taxes' means all ad valorem taxes for county purposes levied by, for, or on behalf of a county, including, but not limited to, taxes to pay interest on and to retire county bonded indebtedness.

(4) 'Fair market value' means the compensation that a knowledgeable buyer would pay for a homestead property or nonhomestead property and a willing seller would accept for the homestead property or nonhomestead property at an arm's length, bona fide sale of such homestead or nonhomestead property.

(5) 'Homestead property' means the homestead as defined and qualified by general law for general law homestead exemptions.

(6) 'Immediate family member' means the spouse, child, stepchild, child's spouse, stepchild's spouse, grandchild, stepgrandchild, grandchild's spouse, stepgrandchild's spouse, parent, stepparent, parent-in-law, sibling-in-law, niece, nephew, stepparent-in-law, sibling, or stepsibling of the seller.

(7) 'Local taxing jurisdiction's appraisal valuation' or 'local taxing jurisdiction's valuation' means an appraisal valuation or valuation obtained by a county, municipality, or county or independent school district pursuant to this Paragraph.

(8) 'Municipal ad valorem taxes' means all ad valorem taxes for municipal purposes levied by, for, or on behalf of a municipality, including, but not limited to, taxes to pay interest on and to retire municipal bonded indebtedness.

(9) 'Nonhomestead property' means any business or commercial real property or other real property which does not qualify as a homestead.

(10) 'Purchase price' means the amount of total compensation that a buyer pays to acquire a homestead or nonhomestead property from a willing seller in an arm's length, bona fide sale of such homestead or nonhomestead property. The term 'total compensation' shall include, without limitation, any in-kind transfer, land transfer, or other transfer or exchange of a thing of value given, directly or indirectly, to acquire such homestead property or nonhomestead property.

(11) 'School district ad valorem taxes' means all ad valorem taxes for educational purposes levied by, for, or on behalf of a county or independent school district, including, but not limited to, taxes to pay interest on and to retire school district bonded indebtedness.

(12) 'Taxpayer' means a person or entity subject to county, municipal, or school district ad valorem taxes for real property owned by the person or entity as a homestead or as nonhomestead property.

(13) 'Taxpayer's appraisal valuation' or 'taxpayer's valuation' means an appraisal valuation or valuation obtained by a taxpayer pursuant to this Paragraph.

(b) The procedures specified in this Paragraph shall govern all appeals of ad valorem tax assessments regarding county ad valorem taxes, municipal ad valorem taxes, or school district ad valorem taxes.

(c) For purposes of determining valuation pursuant to this Paragraph, the local taxing jurisdiction shall obtain an appraisal valuation and shall provide such appraisal valuation to the taxpayer in a written appraisal report documenting the fair market value of the property, subject to the following conditions:

(1) If the taxpayer disagrees with the local taxing jurisdiction's appraisal valuation, then the taxpayer, within 45 days of receipt of the local taxing jurisdiction's appraisal report, may obtain a separate appraisal valuation; otherwise, the local taxing jurisdiction's appraisal valuation shall become the valuation of the homestead or nonhomestead property for purposes of this Paragraph;

(2) If the taxpayer obtains an appraisal valuation under this subparagraph within 45 days of receipt of the local taxing jurisdiction's appraisal report and if the difference

64 between the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal
65 valuation is 20 percent or less, then the valuation of such property for the purpose of any
66 exemption granted by this Paragraph shall be the taxpayer's appraisal valuation; provided,
67 however, that before the taxpayer's appraisal valuation shall become effective, the
68 taxpayer shall provide the taxpayer's appraisal valuation to the appropriate local taxing
69 jurisdiction via certified mail, return receipt requested, via priority mail, delivery
70 confirmation requested, or via statutory overnight delivery; and

71 (3) If the difference between the taxpayer's appraisal valuation and the local taxing
72 jurisdiction's appraisal valuation exceeds 20 percent and if the local taxing jurisdiction
73 does not agree to the valuation determined by the taxpayer's appraisal valuation, then the
74 local taxing jurisdiction and taxpayer shall agree to an arbitrator or shall apply to the
75 superior court of the county, on a form approved by the clerk of the court, to appoint an
76 arbitrator. The cost of the application shall be borne by the local taxing jurisdiction,
77 which cost the General Assembly is authorized to establish by general law but which
78 shall otherwise be established by the clerk of the superior court of each county. Unless
79 the General Assembly shall provide by general law otherwise, such cost shall not exceed
80 \$50.00. The arbitrator shall be appointed by the court to select which of the two appraisal
81 valuations is closer to the fair market value of the homestead or nonhomestead property,
82 and the closer appraisal valuation shall become the valuation of the homestead or
83 nonhomestead property for purposes of this Paragraph. The cost for the service of the
84 arbitrator shall be borne equally by the taxpayer and by the local taxing jurisdiction.

85 (d) At any time after the taxpayer's valuation is determined pursuant to this Paragraph,
86 a taxpayer may seek a new determination of value of the homestead or nonhomestead
87 property. In such case, the taxpayer shall obtain an appraisal valuation and shall provide
88 such appraisal valuation to the local taxing jurisdiction in a written appraisal report
89 documenting the fair market value of the property, subject to the following conditions:

90 (1) If the taxing jurisdiction disagrees with the taxpayer's appraisal valuation, then the
91 taxing jurisdiction, within 45 days of receipt of the taxpayer's appraisal report, may obtain
92 a separate appraisal valuation; otherwise, the taxpayer's appraisal valuation shall become
93 the valuation of the homestead or nonhomestead property for purposes of this Paragraph;

94 (2) If the taxing jurisdiction obtains an appraisal valuation under this subparagraph
95 within 45 days of receipt of the taxpayer's appraisal report and if the difference between
96 the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal valuation
97 is 20 percent or less, then the valuation of such property for the purpose of any exemption
98 granted by this Paragraph shall be the taxpayer's appraisal valuation; provided, however,
99 that before the taxpayer's appraisal valuation shall become effective, the taxpayer shall
100 provide the taxpayer's appraisal valuation to the appropriate local taxing jurisdiction via

certified mail, return receipt requested, via priority mail, delivery confirmation requested, or via statutory overnight delivery; and

(3) If the difference between the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal valuation exceeds 20 percent and if the local taxing jurisdiction does not agree to the valuation determined by the taxpayer's appraisal valuation, then the local taxing jurisdiction and taxpayer shall agree to an arbitrator or shall apply to the superior court of the county, on a form approved by the clerk of the court, to appoint an arbitrator. The cost of the application shall be borne by the local taxing jurisdiction, which cost the General Assembly is authorized to establish by general law but which shall otherwise be established by the clerk of the superior court of each county. Unless the General Assembly shall provide by general law otherwise, such cost shall not exceed \$50.00. The arbitrator shall be appointed by the court to select which of the two appraisal valuations is closer to the fair market value of the homestead or nonhomestead property, and the closer appraisal valuation shall become the valuation of the homestead or nonhomestead property for purposes of this Paragraph. The cost for the service of the arbitrator shall be borne equally by the taxpayer and by the local taxing jurisdiction.

(e) Any valuation determined under this Paragraph shall be contingent upon the purchase being a bona fide, arm's length transaction. The local taxing jurisdiction shall be permitted to challenge whether a purchase of a homestead or nonhomestead property was a bona fide, arm's length transaction under the following conditions:

(1) Where the purchase was made, directly or indirectly, by a person or by an entity controlled by such person or in which such person has a 20 percent or greater interest in the purchasing entity, which person is an immediate family member of the seller or, in the case of a seller that is an entity, by a person who is an immediate family member of a person who controls or who has a 20 percent or greater ownership interest in the selling entity;

(2) Where the purchase was made for less than 75 percent of fair market value; or

(3) Where a taxpayer purchases or otherwise acquires a homestead or nonhomestead property as the result of a foreclosure.

(f) A taxpayer obtaining a homestead or nonhomestead property through bequest, inheritance, foreclosure, or in-kind transfer shall obtain an appraisal of the homestead or nonhomestead property for purposes of establishing valuation for purposes of this Paragraph. If the local taxing jurisdiction disagrees with the appraisal valuation obtained by the taxpayer, then the local taxing jurisdiction may seek its own appraisal valuation pursuant to the provisions of subparagraph (c) of this Paragraph.

(g) When, after purchasing a homestead or nonhomestead property, a taxpayer borrows money or is otherwise extended credit at such taxpayer's request based on the value of such

138 homestead or nonhomestead property, which value exceeds the last valuation established
139 under this Paragraph, as adjusted by any applicable subparagraphs of this Paragraph, the
140 higher valuation shall become the value of the homestead or nonhomestead property for
141 purposes of this Paragraph."

142 **SECTION 2.**

143 The above proposed amendment to the Constitution shall be published and submitted as
144 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
145 above proposed amendment shall have written or printed thereon the following:

146 "() YES Shall the Constitution of Georgia be amended so as to provide for ad
147 () NO valorem tax valuation and appeal procedures?"

148 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

149 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
150 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
151 become a part of the Constitution of this state.